

**Fact Pattern-
Primary Players**

- Decedent **DONNA**
- Husband/Ex of Decedent **HARRY**
- Adult Son **ANDY**
- Adult Daughter **DEBRA**
- Minor Daughter **MARY**
- Second Spouse of Decedent **SUE**

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**Fact Pattern-
Secondary Players**

- Child of Decedent but not Spouse
(spouse's step child) **SANDRA-DEE**
- Child of Spouse but not Decedent
(decedent's step child) **SHANE-SCOTT**
- Brother of Decedent **BOB**

General Assumption

Donna died domiciled in Massachusetts on January 2, 2012 and it is now March 1, 2012.

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**SETTLEMENT &
DISTRIBUTION**

The PR shall proceed expeditiously with the settlement and distribution of a decedent's estate and, unless supervised, do so without adjudication, order, or direction of the court.

The PR or any interested person may petition the Court to resolve issues regarding the settlement and distribution of the estate.

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**SETTLEMENT & DISTRIBUTION
Inventory**

An Inventory is still required and must be made by the PR within 3 months of appointment.

The Inventory form is no longer issued by Court. If the PR files the Inventory with the Court it must be on the Court promulgated form.

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**SETTLEMENT & DISTRIBUTION
Inventory**

The PR shall file with the Court OR mail to all interested persons a copy of the Inventory and may file the original with court. Failure to do so may result in an Order compelling compliance (Order to Render) or in removal.

While the filing of the Inventory with the Court is no longer required in general, it continues to be required with a Petition for License to Sell.

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**SETTLEMENT & DISTRIBUTION
Accounts**

Much of G.L. c. 206 is still in effect.

There is no longer a requirement to file an Account with the Court.

If an Account is filed with the Court, it must be on the court promulgated form.

Accounts are allowed by the Court only if requested in a Petition.

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SETTLEMENT & DISTRIBUTION
Accounts

INTERIM ACCOUNTS

The filing of Annual Accounts with the Court is no longer required. Interim Accounts may be filed with the Court but will not be allowed by the Court unless a Petition for Allowance of an Account is filed with the Court.

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SETTLEMENT & DISTRIBUTION
Accounts

FINAL ACCOUNTS

The filing of a Final Account with the Court is not required unless:

- administration is Supervised or
- it is ordered by the Court or
- the PR is seeking an Order of Complete Settlement of the Estate.

A Final Account will not be allowed unless the Final Account is filed with a Petition for Complete Settlement of the Estate.

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SETTLEMENT & DISTRIBUTION
Methods for Closing

Unless the administration of the estate is supervised, it is no longer necessary for the PR to take any action to close the estate.

Regardless of whether or not the estate is closed, the PR's power over the estate continues until the PR's incapacity, death, resignation or removal (exception: see Small Estate Closing Statement).

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SETTLEMENT & DISTRIBUTION

Methods for Closing

To close an estate, the PR may file:

- A Small Estate Closing Statement signed by the PR;
- A Closing Statement signed by the PR;

To close an estate, the PR or any interested person may file:

- A Petition for Complete Settlement of Estate.

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SETTLEMENT & DISTRIBUTION

Voluntary Administration

Closing procedures do not apply to Voluntary PRs because VPRs are not defined as PRs in the Code.

An estate may be considered a "small estate" and not qualify for Voluntary Administration.

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SETTLEMENT & DISTRIBUTION

A Small Estate Closing Statement

The estate is considered a small estate because:

[the value of the entire estate] - [liens & encumbrances]

is **less** than or equal to the total of:

[the family allowance] + [exempt property] +
[costs & expenses of administration] +
[reasonable funeral expenses] + [reasonable and necessary medical and hospital expenses of the last illness of decedent]

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**SETTLEMENT & DISTRIBUTION
A Small Estate Closing Statement**

If the estate is a small estate, a PR may file a small estate closing statement if:

- Administration is not supervised;
- There is no court order requiring a formal closing proceeding;
- The PR has disbursed or distributed the estate to persons entitled thereto;
- The PR has sent a copy of the small estate closing statement to all distributees AND all creditors/claimants who have unbarred claims which have not been paid; and
- The PR has furnished a written account to the distributees whose interests are affected.

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**SETTLEMENT & DISTRIBUTION
A Closing Statement**

A PR may file a Closing Statement if the following 7 requirements are met:

1. Administration is not supervised;
2. There is no court order requiring a formal closing proceeding;
3. Six months have passed since the date of the original appointment;
4. The time for creditor's claims has expired;

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**SETTLEMENT & DISTRIBUTION
A Closing Statement**

5. The PR has fully administered the estate by:

→ distributing the estate to the persons entitled
AND

→ making payment, settlement or other
disposition of:

all claims presented; and all expenses of administration
and estate and inheritance and death taxes,

except as may be specified in the statement

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**SETTLEMENT & DISTRIBUTION
A Closing Statement**

“Except as may be specified in the statement” means:

If the PR has not fully satisfied all claims prior to distribution, the PR must state:

distribution of the estate assets was made with the assent of the distributees subject to possible liability for undischarged claims

OR

the details of the arrangements made to accommodate outstanding liabilities.

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**SETTLEMENT &
DISTRIBUTION**

A Closing Statement

6. The PR has sent a copy of the sworn statement to all distributees AND all creditors/claimants who have unbarred claims which have not been paid.
7. The PR has furnished an account to the distributees whose interests are affected.

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**SETTLEMENT & DISTRIBUTION
Petition for an Order of Complete
Settlement of the Estate**

A PR or any interested person may Petition for an Order of Complete Settlement of the Estate if:

1. One year has passed since the date of the original appointment or the petitioner is the PR.
2. The time for creditor's claims has expired.
3. All interested persons have assented to the petition or have been given notice by citation and a complete Return of Service has been filed.
4. The Final Account must be on file with the Court or accompanies the Petition. The Inventory need not be filed unless ordered by the Court.

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SETTLEMENT & DISTRIBUTION

Petition for an Order of Complete Settlement of the Estate

A Petition for Order of Complete Settlement of the Estate

- MUST request that the Court approve the Final Account.
- MAY request that the Court:
 1. Determine testacy (if not previously determined);
 2. Determine heirs;
 3. Compel or approve a distribution;
 4. Construe any probated will.

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SETTLEMENT & DISTRIBUTION

Other Orders of Complete Settlement of Issues

Prior to an Order of Complete Settlement of the Estate, there may be multiple Petitions for Order of Complete Settlement of specific issues.

These Petitions do not close the estate but only determine the issue for which relief was requested.

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SETTLEMENT & DISTRIBUTION

<i>When PR files:</i>	<i>Estate is settled</i>	<i>PR's authority is automatically terminated</i>	<i>Closing Statement may be challenged</i>	<i>PR is discharged from further claim or demand and is exonerated of liability</i>
No Closing Statement	No.	No.	Not Applicable.	No.
Small Estate Closing Statement §3-1204	Yes.	Yes, 1 year after filing closing statement provided no actions involving the PR are pending in the Court.	Yes, for 1 year (by filing a Petition for Complete Settlement). Thereafter, only for fraud or manifest error.	No.
Closing Statement §3-1003	Yes.	No.	Yes, for 1 year (by filing a Petition for Complete Settlement). Thereafter, only for fraud or manifest error.	No.
Petition for Complete Settlement of Estate §3-1001	Yes.	No.	No, except for fraud or manifest error.	Yes, as to all issues determined in the Order of Complete Settlement.

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SETTLEMENTS

Fact Pattern 1

Donna dies leaving a spouse, Harry, and three children, Andy, Debra and Mary. The will leaves everything to Harry. Harry is appointed PR. One year has passed since his appointment as PR.

What are Harry's obligations?

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SETTLEMENTS

Answer to Fact Pattern 1

Harry need not take any action to close the estate.

Harry had to prepare an Inventory within three months of his appointment. The Inventory did not have to be filed with the Court. It did not need to be provided to anyone else because Harry is the only devisee.

Harry has no obligation to prepare or file an Account.

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SETTLEMENTS

Fact Pattern 2

CHANGE FACT PATTERN 1:

Donna dies leaving her spouse Sue and her 3 children from her marriage to Harry: Andy, Debra and Mary, a minor, who lives with Harry. Sue was appointed PR of Donna's estate. Donna's will leave everything equally to Sue, Andy, Debra and Mary. Sue believes she has administered the estate effectively and fairly. She prepared an Inventory which she provided to Andy, Debra, Mary and to Harry since Harry was appointed Mary's conservator in order to handle Donna's estate issues.

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SETTLEMENTS
Fact Pattern 2 (continued)

The creditor's time has run (12 months since date of death) and Sue has paid all debts of the estate. She is prepared to make a distribution to Andy, Debra and Mary but she is worried because Harry has complained about her handling of the estate in the past (although he has never asked that the estate be supervised). Sue believes that Harry may create problems.

What are Sue's options?

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SETTLEMENTS
Answer to Fact Pattern 2

After distributing the estate, Sue can:

1. Do nothing and run the risk that someone may challenge her actions at any later time.
2. File a closing statement with the Court and provide a copy of her Account and a copy of the closing statement to Andy, Debra, Mary and Harry, as conservator for Mary.
3. File a Petition for Complete Settlement of the Estate with the Court requesting the approval of the final account (best protection practice).

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SETTLEMENTS
Fact Pattern 3

ADD THE FOLLOWING FACTS TO FACT PATTERN 2:

Sue does nothing to close the estate. Harry is upset and disputes how the distributions were made.

What are Harry's options?

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SETTLEMENTS

Answer to Fact Pattern 3

Harry may file a Petition for an Order of Complete Settlement of an Issue praying for any of the following:

- Compel an accounting;
- Compel a distribution;
- Construe the will;

He may also file a Petition and Order to Render an Inventory, a Petition for Removal and/or a Petition to Restrain Sue's authority.

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